

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TAMICKO MURRAY MCIVER,

Plaintiff,

-v-

COMMISSIONER OF SOCIAL SECURITY,

Defendant.
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19-CV-10264 (JPC)

ORDER ADOPTING
REPORT AND
RECOMMENDATION

JOHN P. CRONAN, United States District Judge:

Plaintiff Tamicko Murray McIver, proceeding *pro se*, brings this action seeking review of “an unfavorable decision regarding her application for, or eligibility to receive, benefits under Title XVI of the Social Security Act . . . or Title II of the Social Security Act” pursuant to 42 U.S.C. § 405(g). (Dkt. 7.) On June 6, 2020, Defendant filed a Motion to Dismiss the Amended Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. (Dkts. 21-23.) Plaintiff has not submitted any briefing in opposition to that motion. By Order dated October 19, 2020, the Honorable Kevin Nathaniel Fox, to whom this case has been referred, issued a Report and Recommendation recommending that (1) Defendant’s Motion to Dismiss be denied and (2) that the case be dismissed, without prejudice, for lack of subject matter jurisdiction. (Dkt. 26.)

A district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge” in a Report and Recommendation. 28 U.S.C. § 636(b)(1)(C). If a party submits a timely objection to any part of the magistrate judge’s disposition, the district court will conduct a *de novo* review of the contested section. Fed. R. Civ. P. 72(b)(3); *see also United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997). If no


objections are made, the Court reviews the Report and Recommendation for clear error. *See, e.g., Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003).

The Report and Recommendation, citing both Rule 72 of the Federal Rules of Civil Procedure and 28 U.S.C. § 636(b)(1), advised the parties that they had fourteen days from service of the Report and Recommendation to file any objections, and warned that failure to timely file such objections would result in waiver of any right to object. (Dkt. 26 at 8-9.) No objections have been filed and the time for making any objections has passed. The parties have therefore waived the right to object to the Report and Recommendation or to obtain appellate review. *See Frank v. Johnson*, 968 F.2d 298, 300 (2d Cir. 1992); *see also Caidor v. Onondaga County*, 517 F.3d 601 (2d Cir. 2008).

The Court acknowledges that the Clerk's Office has twice attempted to mail Plaintiff a copy of the Report and Recommendation, but that mail has been returned as undeliverable. As Plaintiff is aware, it is her responsibility to keep the Court apprised of her mailing address. (*See* Dkts. 10, 15.) She has not done so in this case. Although Plaintiff has waived her right to object, the Court has nonetheless conducted a *de novo* review of the Report and Recommendation, and finds it to be well reasoned and its conclusions well founded. Therefore, the Court ADOPTS the Report and Recommendation in its entirety.

SO ORDERED.

Dated: January 29, 2021
New York, New York



JOHN P. CRONAN
United States District Judge